

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

NICHOLAS TROMBETTA
NEAL PRENCE

Criminal No. 13-227

GOVERNMENT'S RESPONSE TO DEFENDANT NICHOLAS
TROMBETTA'S RESPONSE TO APRIL 27, 2015 ORDER

AND NOW comes the United States of America, by its attorneys, David J. Hickton, United States Attorney in and for the Western District of Pennsylvania, and James R. Wilson, Robert S. Cessar and Stephen R. Kaufman, Assistant United States Attorneys in and for said district, and respectfully responds to the Defendant's proposed timeline (Docket No. 143) in accordance with the Court's Text Order of April 27, 2015:

A. PROPOSED TIMELINE

The government understood throughout the hearings held by this Honorable Court, and at the time of the January 23, 2015 Text Order, which set forth the timeline for the filing of proposed Findings of Fact and Conclusions of Law, that the "common interest" issue was part of the first phase of this pretrial litigation. The government believes that it shared this understanding with the Court. The defendant contends that the "common interest" issue was not part of Phase One.

In any case, the government believes that the defendant should be given an opportunity to brief this issue and has no objection to the proposed timeline of ordering Trombetta's submission to be due two weeks from the date of this Court's Order establishing the timeline.

However, the government does object to the defendant's suggestion that "no further response from the government should follow." While the government would not anticipate a lengthy response, it submits that it should be given an opportunity to briefly respond within five business days of the filing of the defendant's brief, if necessary. The government has no objection to the defendant having the "final word" with a brief reply due five days after the government's filing.

B. MOTION TO STRIKE

Unfortunately, defendant Trombetta has chosen not to withdraw his Motion to Strike (Docket No. 141). The defendant attempts to suggest that the government's Memorandum Reply to Documents 133 and 139 (Docket No. 140) somehow contravened this Court's Text Order of January 23, 2015. It did not.

The Text Order of January 23, 2015 set forth a schedule for the filing of proposed Findings of Fact and Conclusions of Law by each side, and permitted a Reply by the defendant by April 13, 2015. However, most importantly, the Court further stated "should any party wish to file supplemental

and separate legal briefing *on any issue raised in this phase* of the motion's resolution, such briefing shall be filed no later than 4/20/2015." (italics added). The government properly understood this broad language as permitting the Memorandum Reply which it filed on April 20, 2015, in compliance with the Court's text order. Rather than "flouting this Court's Order" (see document 141 at page 2), the government complied with the January 23, 2015 Order. There is no basis for the Motion to Strike and it should be summarily rejected by the Court.

Respectfully submitted,

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